

Amendment and Response

Applicant: Paul Strande

Serial No.: 09/676,323

Filed: September 29, 2000

Docket No.: S122.101.101

Title: GOLF SWING PATH AND ALIGNMENT TRAINING DEVICE

REMARKS

This Amendment is responsive to the Office Action mailed April 7, 2004. In that Office Action, the Examiner objected to claim 25 due to minor informalities. Claims 1, 2, 6, 11-13, 15, 16, 18, and 23-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Trosko, U.S. Patent No. 3,580,584 ("Trosko") in view of Vlach, U.S. Patent No. 3,899,179 ("Vlach") and Lynch, U.S. Patent No. 1,596,110 ("Lynch"). Claim 7 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Trosko, Vlach, and Lynch as applied to claims 1, 2, and 6 above, and further in view of Official Notice. Claims 8-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Trosko, Vlach, and Lynch as applied to claims 1, 2, and 6 above, and further in view of Official Notice. Claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Trosko, Vlach, and Lynch as applied to claims 1, 2, and 6 above, and further in view of Anderson, U.S. Patent No. 3,542,369 ("Anderson"). The Examiner's indication claim 17, although objected to, would be allowable if re-written, and the Examiner's indication that claims 19-22 are allowed, are noted with appreciation.

With this Response, claims 6, 18 and 19 have been amended. Claims 1, 2, and 6-25 remain pending in the application and are presented for reconsideration and allowance. In addition, new claim 26 is presented for consideration and allowance.

Allowable Claims

The Examiner indicated that claims 19-22 present allowable material. Claim 19 has been amended, but is still believed to present patentably distinct material from the cited references. In particular, the Examiner's reasons for indicating the claims were allowable at page 6 of the Office Action dated 4/7/2004, i.e., that "none of the prior art teach a club path indicator that extends through a junction of the arm path member and the body path member, when affixed in the manner claimed..." is believed to remain supportive of the patentability of claim 19 as amended. However, it is also believed that the claims as amended present patentably distinct material in light of the arguments provided below. The Examiner also indicated claim 17, although objected to, would be allowable if rewritten in independent form. As a result, newly added claim 26 incorporates the limitations of dependent claim 17, independent claim 1, and all

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intervening claims. As such, claims 19 as amended, 20-22, and newly presented claim 26 are believed to be allowable. Therefore, allowance and notification to that effect are respectfully requested.

Objection to Claim 25

At page 2 of the above-referenced Office Action, the Examiner objected to claim 25 based on the informality that the limitation “wherein the down swing club path guide is spatially fixed relative to the arm path member and the body path member” is not clear. According to the Examiner, “spatially fixed is unclear because in Fig. 1 of the instant application, the club path guide, the arm path member, and the body path member clearly have a common area at the center of the device.” It is respectfully submitted that the claim language is sufficiently clear to one having ordinary skill in the art. In particular, objects may share a common area or “common space” and still have a spatial relation. Logically, that relation can be a “fixed” one. In the one embodiment shown in Fig. 1, the area where the central portions are connected provides a fixed relation. As the club path guide, the arm path member, and the body path member are clearly shown as having a spatial relation in the figure, and a means for fixing that spatial relation is provided by the Applicant’s disclosure, one having ordinary skill in the art would understand the meaning of the term “spatially fixed relative to” as used in connection with the present invention. As the claim language is sufficiently clear and supported by the Specification, the Examiner’s objection is respectfully traversed. As such, withdrawal the objection is requested.

35 U.S.C. §103 Rejections

Claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Trosko in view of Vlach and Lynch. Claim 1 relates, in part, to an arm path member having a substantially linear, elongated shape and having a leading end, a central portion, and a trailing end, and a body path member having a generally arcuate shape with a leading end, a central portion and a trailing end, with the central portion being integrally connected together with the central portion of the arm path member as a monolithic unit. For at least the reasons described below, the cited art fails to teach or suggest such limitations.

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In rejecting claim 1, the Examiner recognizes that Trosko fails to show a monolithic unit, to reveal a device defining a forward and rearward extension relative to the center, and directional arrows disposed at each of the leading and trailing ends of the arm path and body path members. At page 3 of the Office Action, the Examiner relies on Vlach to provide a trailing end to the bar 23 as well as directional arrows at the leading and trailing ends of the bar 23 and bow 11 of the Trosko reference. However, such reliance on Vlach is improper as the references teach away from their combination. MPEP §§ 2141.03 & 2161. In particular, Vlach teaches, “[I]t is an important part of my invention that the entire golf-swing guide be comfortable to carry in the pocket of a golfer’s pants and, therefore, be blunt on its periphery to avoid the sharp arrows of the prior art proposal mentioned so as to not be dangerous from the standpoint of puncturing the golfer’s leg.” Vlach, column 1, lines 23-31. Clearly, Vlach’s intent to provide an innocuous design teaches away from an arm path member having a substantially linear, elongate shape including a leading and a trailing end as required by the limitations of claim 1. Thus, contrary to the Examiner’s assertion, Vlach does not provide Trosko with a trailing end to bar 23, as Vlach specifically seeks to avoid non-blunt protrusions, including sharp arrows. As such, Vlach also teaches away from the incorporation of directional arrows at the leading and trailing ends of bar 23 and bow 11 of Trosko contrary to the Examiner’s position.

At page 4 of the Office Action, the Examiner further states that Lynch discloses a monolithic device, and such monolithic limitation would be desirable in the Trosko device in order to provide “a device that has less parts.” However, Trosko teaches, “[A] principal object of the present invention is to provide a diamond golf meter comprising a practice device for golfers and which is adjustable by movement of working parts so as to accommodate all persons.” Trosko, column 1, lines 4-7. Trosko further discloses that, “[a]nother object is to provide a diamond golf meter which is comprised of a plurality of linear members... which are adjustably enjoined.” Trosko, column 1, lines 8-12. Thus, Trosko expressly and repeatedly teaches the desirability of its constituent parts being adjustable. Clearly, a device having a single monolithic part taught by Lynch would defeat the stated object of Trosko, sufficient adjustability to accommodate all persons. Further, the it is respectfully submitted that the motivation to combine cited by the Examiner— providing a device that has less parts — is not present in the

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prior art cited. In fact, one of ordinary skill would recognize that a greater number of constituent parts would correspond to greater adjustability. As there is no suggestion to combine the cited references (in fact, they teach away from their combination) it is believed that the Examiner has provided an improper basis for their rejection. Therefore, the Examiner's rejection of claim 1 is respectfully traversed and allowance is requested.

Claim 18 as amended incorporates limitations similar to those described above. Therefore, it is believed that claim 18 as amended presents patentably distinct material from the cited references for reasons similar to those described in association with claim 1. As claims 2, 6-17, and 19-25 depend, in some form, from independent claims 1 and 18 as amended they are believed to present patentably distinct material as well. As such, their allowance is requested. As a side note, it is to be recognized that the amendment to claim 18 is a grammatical correction and is not intended to be otherwise limiting.

Claim 19 as amended depends from claim 18 as amended and is believed allowable for reasons argued in association with claim 18. However, claim 19 as amended also presents patentably distinct matter from the cited references for reasons in addition to those argued in association with claim 18 as amended. Claim 19 as amended incorporates the limitations of independent claim 18 as amended and also relates, in part, to a substantially straight, arm path indicator imposed on the arm path member and being generally parallel to the outer edge of the arm path member; a body path indicator imposed on the body path member; and a club path indicator disposed on the common central portion of, and extending between, the arm path member and the body path member. For at least reasons similar to those presented by the Examiner's statement of reasons for indicating allowance on page 6 of the Office Action, the cited references fail to teach or suggest such limitations.

In particular, the rope or flexible cord bow 11 and bar 23 fails to teach or suggest a body path member and an arm path member with a club path indicator disposed on the common central portion of, and extending between, the arm path member and the body path member. The intersection of a cord and a bar does not teach or suggest a club path indicator extending between the two. In fact, according to the structure of Trosko, a club path indictor would have to extend on either the cord bow 11 or the bar 23, but not between. See Trosko, Fig. 1. Therefore, for at

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least these additional reasons, claim 19 as amended is believed to present patentably distinct material from the cited references. As claims 20-22 depend from claim 19 as amended they are believed allowable for reasons similar to those argued in association with claim 19 as amended. Therefore, reaffirmation of the patentability of claims 19-22 is respectfully requested.

Claim 6 as amended relates, in part, to a generally arcuate-shaped down swing club path guide arranged between the arm path member and the body path member, wherein the down swing club path guide has a larger radius of curvature than the body path member. The subject matter of this amendment is believed supported by the Specification at Fig. 1. Additionally, at page 10, lines 6-9 of the Specification it is disclosed that “the down swing club path guide is preferably formed along a connection point between the two central portions 20,42.” Clearly, a second arcuate element disposed between a linear element and a first arcuate element requires that the second arcuate element have a smaller radius of curvature of the first arcuate element if all three converge at a point, such as 64 on Fig. 1, and then diverge from that point.

It is believed claim 6 as amended presents patentably distinct material for at least the additional reasons below. At page 3 of the above-referenced Office Action, the Examiner indicates that the flexible cord bow 11 of Trosko includes a body path member as well as a “back swing portion” and “follow through portion.” Clearly, the rope or flexible cord bow 11 is incapable of providing both a body path member and a generally arcuate shape down swing club path guide having a larger radius of curvature than the body path member as required by the limitations of claim 6 as amended. In particular, the same cord bow 11 cannot form two arcs simultaneously, one having a different radius of curvature than the other. For example, see Trosko, Fig. 1.

With respect to claim 13, the Examiner mentions in passing that intended use does not define structural limitations. Claim 13 relates, in part, to a golf swing aid, wherein a body path member is configured to visually indicate an incorrect swing path. It is believed that a body path member configured to visually indicate an incorrect swing path as required by claim 13 is not merely an intended use. In particular, a configuration that visually indicates an incorrect swing path conveys a structural limitation to a person having ordinary skill in the art. For at least this additional reason, claim 13 presents patentably distinct material from the cited references.

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Allowable Subject Matter

In light of the above, Applicant believes independent claims 1, 18, and 26 and the claims depending therefrom, are in condition for allowance. Allowance of these claims and notice of that effect is respectfully requested.

CONCLUSION

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471

The Examiner is invited to contact the Applicants' Representative at the below-listed telephone number if there are any questions regarding this response.

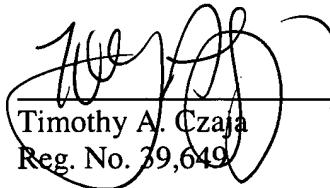
Respectfully submitted,

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CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 7/1 day of July, 2004.

By _____
Name: **Timothy A. Czaja**